
Introduced by Senator Lowenthal

February 22, 2005

An act to amend Sections 65089.6, 65302, 66484, and 66484.3 of the Government Code, to amend Section 99150 of the Public Utilities Code, to amend Section 75.9 of the Streets and Highways Code, and to amend Sections 21101 and 35701 of the Vehicle Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 927, as introduced, Lowenthal. General plans: transportation element.

Existing law requires a general plan to include a statement of development policies and, among other elements, a circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan.

This bill would rename the circulation element the transportation element and make other technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65089.6 of the Government Code is
- 2 amended to read:
- 3 65089.6. Failure to complete or implement a congestion
- 4 management program shall not give rise to a cause of action
- 5 against a city or county for failing to conform with its general
- 6 plan, unless the city or county incorporates the congestion

1 management program into the ~~circulation~~ *transportation* element
2 of its general plan.

3 SEC. 2. Section 65302 of the Government Code is amended
4 to read:

5 65302. The general plan shall consist of a statement of
6 development policies and shall include a diagram or diagrams
7 and text setting forth objectives, principles, standards, and plan
8 proposals. The plan shall include the following elements:

9 (a) A land use element that designates the proposed general
10 distribution and general location and extent of the uses of the
11 land for housing, business, industry, open space, including
12 agriculture, natural resources, recreation, and enjoyment of
13 scenic beauty, education, public buildings and grounds, solid and
14 liquid waste disposal facilities, and other categories of public and
15 private uses of land. The land use element shall include a
16 statement of the standards of population density and building
17 intensity recommended for the various districts and other
18 territory covered by the plan. The land use element shall identify
19 areas covered by the plan which are subject to flooding and shall
20 be reviewed annually with respect to those areas. The land use
21 element shall also do both of the following:

22 (1) Designate in a land use category that provides for timber
23 production those parcels of real property zoned for timberland
24 production pursuant to the California Timberland Productivity
25 Act of 1982, Chapter 6.7 (commencing with Section 51100) of
26 Part 1 of Division 1 of Title 5.

27 (2) Consider the impact of new growth on military readiness
28 activities carried out on military bases, installations, and
29 operating and training areas, when proposing zoning ordinances
30 or designating land uses covered by the general plan for land, or
31 other territory adjacent to military facilities, or underlying
32 designated military aviation routes and airspace.

33 (A) In determining the impact of new growth on military
34 readiness activities, information provided by military facilities
35 shall be considered. Cities and counties shall address military
36 impacts based on information from the military and other
37 sources.

38 (B) The following definitions govern this paragraph:

39 (i) "Military readiness activities" mean all of the following:

1 (I) Training, support, and operations that prepare the men and
2 women of the military for combat.

3 (II) Operation, maintenance, and security of any military
4 installation.

5 (III) Testing of military equipment, vehicles, weapons, and
6 sensors for proper operation or suitability for combat use.

7 (ii) “Military installation” means a base, camp, post, station,
8 yard, center, homeport facility for any ship, or other activity
9 under the jurisdiction of the United States Department of Defense
10 as defined in paragraph (1) of subsection (e) of Section 2687 of
11 Title 10 of the United States Code.

12 (b) A ~~circulation~~ *transportation* element consisting of the
13 general location and extent of existing and proposed major
14 thoroughfares, transportation routes, terminals, any military
15 airports and ports, and other local public utilities and facilities,
16 all correlated with the land use element of the plan.

17 (c) A housing element as provided in Article 10.6
18 (commencing with Section 65580).

19 (d) A conservation element for the conservation, development,
20 and utilization of natural resources including water and its
21 hydraulic force, forests, soils, rivers and other waters, harbors,
22 fisheries, wildlife, minerals, and other natural resources. The
23 conservation element shall consider the effect of development
24 within the jurisdiction, as described in the land use element, on
25 natural resources located on public lands, including military
26 installations. That portion of the conservation element including
27 waters shall be developed in coordination with any countywide
28 water agency and with all district and city agencies that have
29 developed, served, controlled or conserved water for any purpose
30 for the county or city for which the plan is prepared.
31 Coordination shall include the discussion and evaluation of any
32 water supply and demand information described in Section
33 65352.5, if that information has been submitted by the water
34 agency to the city or county. The conservation element may also
35 cover the following:

36 (1) The reclamation of land and waters.

37 (2) Prevention and control of the pollution of streams and
38 other waters.

39 (3) Regulation of the use of land in stream channels and other
40 areas required for the accomplishment of the conservation plan.

1 (4) Prevention, control, and correction of the erosion of soils,
2 beaches, and shores.

3 (5) Protection of watersheds.

4 (6) The location, quantity and quality of the rock, sand and
5 gravel resources.

6 (7) Flood control.

7 The conservation element shall be prepared and adopted no
8 later than December 31, 1973.

9 (e) An open-space element as provided in Article 10.5
10 (commencing with Section 65560).

11 (f) A noise element which shall identify and appraise noise
12 problems in the community. The noise element shall recognize
13 the guidelines established by the Office of Noise Control in the
14 State Department of Health Services and shall analyze and
15 quantify, to the extent practicable, as determined by the
16 legislative body, current and projected noise levels for all of the
17 following sources:

18 (1) Highways and freeways.

19 (2) Primary arterials and major local streets.

20 (3) Passenger and freight on-line railroad operations and
21 ground rapid transit systems.

22 (4) Commercial, general aviation, heliport, helistop, and
23 military airport operations, aircraft overflights, jet engine test
24 stands, and all other ground facilities and maintenance functions
25 related to airport operation.

26 (5) Local industrial plants, including, but not limited to,
27 railroad classification yards.

28 (6) Other ground stationary noise sources, including, but not
29 limited to, military installations, identified by local agencies as
30 contributing to the community noise environment.

31 Noise contours shall be shown for all of these sources and
32 stated in terms of community noise equivalent level (CNEL) or
33 day-night average level (L_{dn}). The noise contours shall be
34 prepared on the basis of noise monitoring or following generally
35 accepted noise modeling techniques for the various sources
36 identified in paragraphs (1) to (6), inclusive.

37 The noise contours shall be used as a guide for establishing a
38 pattern of land uses in the land use element that minimizes the
39 exposure of community residents to excessive noise.

1 The noise element shall include implementation measures and
2 possible solutions that address existing and foreseeable noise
3 problems, if any. The adopted noise element shall serve as a
4 guideline for compliance with the state's noise insulation
5 standards.

6 (g) A safety element for the protection of the community from
7 any unreasonable risks associated with the effects of seismically
8 induced surface rupture, ground shaking, ground failure, tsunami,
9 seiche, and dam failure; slope instability leading to mudslides
10 and landslides; subsidence, liquefaction and other seismic
11 hazards identified pursuant to Chapter 7.8 (commencing with
12 Section 2690) of the Public Resources Code, and other geologic
13 hazards known to the legislative body; flooding; and wild land
14 and urban fires. The safety element shall include mapping of
15 known seismic and other geologic hazards. It shall also address
16 evacuation routes, military installations, peakload water supply
17 requirements, and minimum road widths and clearances around
18 structures, as those items relate to identified fire and geologic
19 hazards.

20 (1) Prior to the periodic review of its general plan and prior to
21 preparing or revising its safety element, each city and county
22 shall consult the Division of Mines and Geology of the
23 Department of Conservation and the Office of Emergency
24 Services for the purpose of including information known by and
25 available to the department and the office required by this
26 subdivision.

27 (2) To the extent that a county's safety element is sufficiently
28 detailed and contains appropriate policies and programs for
29 adoption by a city, a city may adopt that portion of the county's
30 safety element that pertains to the city's planning area in
31 satisfaction of the requirement imposed by this subdivision.

32 SEC. 3. Section 66484 of the Government Code is amended
33 to read:

34 66484. (a) A local ordinance may require the payment of a
35 fee as a condition of approval of a final map or as a condition of
36 issuing a building permit for purposes of defraying the actual or
37 estimated cost of constructing bridges over waterways, railways,
38 freeways, and canyons, or constructing major thoroughfares. The
39 ordinance may require payment of fees pursuant to this section if
40 all of the following requirements are satisfied:

(1) The ordinance refers to the ~~circulation~~ *transportation* element of the general plan and, in the case of bridges, to the transportation or flood control provisions thereof which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads and in the case of major thoroughfares, to the provisions of the ~~circulation~~ *transportation* element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to the state highway system, if the ~~circulation~~ *transportation* element, transportation or flood control provisions have been adopted by the local agency 30 days prior to the filing of a map or application for a building permit.

(2) The ordinance provides that there will be a public hearing held by the governing body for each area benefited. Notice shall be given pursuant to Section 65091 and shall include preliminary information related to the boundaries of the area of benefit, estimated cost, and the method of fee apportionment. The area of benefit may include land or improvements in addition to the land or improvements which are the subject of any map or building permit application considered at the proceedings.

(3) The ordinance provides that at the public hearing, the boundaries of the area of benefit, the costs, whether actual or estimated, and a fair method of allocation of costs to the area of benefit and fee apportionment are established. The method of fee apportionment, in the case of major thoroughfares, shall not provide for higher fees on land which abuts the proposed improvement except where the abutting property is provided direct usable access to the major thoroughfare. A description of the boundaries of the area of benefit, the costs, whether actual or estimated, and the method of fee apportionment established at the hearing shall be incorporated in a resolution of the governing body, a certified copy of which shall be recorded by the governing body conducting the hearing with the recorder of the county in which the area of benefit is located. The apportioned fees shall be applicable to all property within the area of benefit and shall be payable as a condition of approval of a final map or as a condition of issuing a building permit for the property or portions of the property. Where the area of benefit includes lands not subject to the payment of fees pursuant to this section, the governing agency shall make provision for payment of the share

1 of improvement costs apportioned to those lands from other
2 sources.

3 (4) The ordinance provides that payment of fees shall not be
4 required unless the major thoroughfares are in addition to, or a
5 reconstruction of, any existing major thoroughfares serving the
6 area at the time of the adoption of the boundaries of the area of
7 benefit.

8 (5) The ordinance provides that payment of fees shall not be
9 required unless the planned bridge facility is an original bridge
10 serving the area or an addition to any existing bridge facility
11 serving the area at the time of the adoption of the boundaries of
12 the area of benefit. The fees shall not be expended to reimburse
13 the cost of existing bridge facility construction.

14 (6) The ordinance provides that if, within the time when
15 protests may be filed under the provisions of the ordinance, there
16 is a written protest, filed with the clerk of the legislative body, by
17 the owners of more than one-half of the area of the property to
18 be benefited by the improvement, and sufficient protests are not
19 withdrawn so as to reduce the area represented to less than
20 one-half of that to be benefited, then the proposed proceedings
21 shall be abandoned, and the legislative body shall not, for one
22 year from the filing of that written protest, commence or carry on
23 any proceedings for the same improvement or acquisition under
24 the provisions of this section.

25 (b) Any protest may be withdrawn by the owner protesting, in
26 writing, at any time prior to the conclusion of a public hearing
27 held pursuant to the ordinance.

28 (c) If any majority protest is directed against only a portion of
29 the improvement then all further proceedings under the
30 provisions of this section to construct that portion of the
31 improvement so protested against shall be barred for a period of
32 one year, but the legislative body may commence new
33 proceedings not including any part of the improvement or
34 acquisition so protested against. Nothing in this section prohibits
35 a legislative body, within that one-year period, from
36 commencing and carrying on new proceedings for the
37 construction of a portion of the improvement so protested against
38 if it finds, by the affirmative vote of four-fifths of its members,
39 that the owners of more than one-half of the area of the property

1 to be benefited are in favor of going forward with that portion of
2 the improvement or acquisition.

3 (d) Nothing in this section precludes the processing and
4 recordation of maps in accordance with other provisions of this
5 division if the proceedings are abandoned.

6 (e) Fees paid pursuant to an ordinance adopted pursuant to this
7 section shall be deposited in a planned bridge facility or major
8 thoroughfare fund. A fund shall be established for each planned
9 bridge facility project or each planned major thoroughfare
10 project. If the benefit area is one in which more than one bridge
11 is required to be constructed, a fund may be so established
12 covering all of the bridge projects in the benefit area. Money in
13 the fund shall be expended solely for the construction or
14 reimbursement for construction of the improvement serving the
15 area to be benefited and from which the fees comprising the fund
16 were collected, or to reimburse the local agency for the cost of
17 constructing the improvement.

18 (f) An ordinance adopted pursuant to this section may provide
19 for the acceptance of considerations in lieu of the payment of
20 fees.

21 (g) A local agency imposing fees pursuant to this section may
22 advance money from its general fund or road fund to pay the cost
23 of constructing the improvements and may reimburse the general
24 fund or road fund for any advances from planned bridge facility
25 or major thoroughfares funds established to finance the
26 construction of those improvements.

27 (h) A local agency imposing fees pursuant to this section may
28 incur an interest-bearing indebtedness for the construction of
29 bridge facilities or major thoroughfares. However, the sole
30 security for repayment of that indebtedness shall be moneys in
31 planned bridge facility or major thoroughfares funds.

32 (i) The term “construction” as used in this section includes
33 design, acquisition of right-of-way, administration of
34 construction contracts, and actual construction.

35 (j) The term “construction,” as used in this section, with
36 respect to the unincorporated area of San Diego County only,
37 includes design, acquisition of rights-of-way, and actual
38 construction, including, but not limited to, all direct and indirect
39 environmental, engineering, accounting, legal, administration of
40 construction contracts, and other services necessary therefor. The

term “construction,” with respect to the unincorporated area of San Diego County only, also includes reasonable administrative expenses, not exceeding three hundred thousand dollars (\$300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, San Diego, California (1967 = 100), as published by the United States Department of Commerce for the purpose of constructing bridges and major thoroughfares. “Administrative expenses” means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(k) Nothing in this section precludes a county or city from providing funds for the construction of bridge facilities or major thoroughfares to defray costs not allocated to the area of benefit.

SEC. 4. Section 66484.3 of the Government Code is amended to read:

66484.3. (a) Notwithstanding Section 53077.5, the Board of Supervisors of the County of Orange and the city council or councils of any city or cities in that county may, by ordinance, require the payment of a fee as a condition of approval of a final map or as a condition of issuing a building permit for purposes of defraying the actual or estimated cost of constructing bridges over waterways, railways, freeways, and canyons, or constructing major thoroughfares.

(b) The local ordinance may require payment of fees pursuant to this section if:

(1) The ordinance refers to the ~~circulation~~ *transportation* element of the general plan and, in the case of bridges, to the transportation provisions or flood control provisions of the general plan which identify railways, freeways, streams, or canyons for which bridge crossings are required on the general plan or local roads, and in the case of major thoroughfares, to the provisions of the ~~circulation~~ *transportation* element which identify those major thoroughfares whose primary purpose is to carry through traffic and provide a network connecting to or which is part of the state highway system, and the ~~circulation~~ *transportation* element, transportation provisions, or flood control provisions have been adopted by the local agency 30 days

1 prior to the filing of a map or application for a building permit.
2 Bridges which are part of a major thoroughfare need not be
3 separately identified in the transportation or flood control
4 provisions of the general plan.

5 (2) The ordinance provides that there will be a public hearing
6 held by the governing body for each area benefited. Notice shall
7 be given pursuant to Section 65905. In addition to the
8 requirements of Section 65905, the notice shall contain
9 preliminary information related to the boundaries of the area of
10 benefit, estimated cost, and the method of fee apportionment.
11 The area of benefit may include land or improvements in
12 addition to the land or improvements which are the subject of any
13 map or building permit application considered at the proceedings.

14 (3) The ordinance provides that at the public hearing, the
15 boundaries of the area of benefit, the costs, whether actual or
16 estimated, and a fair method of allocation of costs to the area of
17 benefit and fee apportionment are established. The method of fee
18 apportionment, in the case of major thoroughfares, shall not
19 provide for higher fees on land which abuts the proposed
20 improvement except where the abutting property is provided
21 direct usable access to the major thoroughfare. A description of
22 the boundaries of the area of benefit, the costs, whether actual or
23 estimated, and the method of fee apportionment established at the
24 hearing shall be incorporated in a resolution of the governing
25 body, a certified copy of which shall be recorded by the
26 governing body conducting the hearing with the recorder of the
27 County of Orange. The resolution may subsequently be modified
28 in any respect by the governing body. Modifications shall be
29 adopted in the same manner as the original resolution, except that
30 the resolution of a city or county which has entered into a joint
31 exercise of powers agreement pursuant to subdivision (f), relating
32 to constructing bridges over waterways, railways, freeways, and
33 canyons or constructing major thoroughfares by the joint powers
34 agency, may be modified by the joint powers agency following
35 public notice and a public hearing, if the joint powers agency has
36 complied with all applicable laws, including Chapter 5
37 (commencing with Section 66000) of Division 1. Any
38 modification shall be subject to the protest procedures prescribed
39 by paragraph (6). The resolution may provide for automatic
40 periodic adjustment of fees based upon the California

1 Construction Cost Index prepared and published by the
2 Department of Transportation, without further action of the
3 governing body, including, but not limited to, public notice or
4 hearing. The apportioned fees shall be applicable to all property
5 within the area of benefit and shall be payable as a condition of
6 approval of a final map or as a condition of issuing a building
7 permit for any of the property or portions of the property. Where
8 the area of benefit includes lands not subject to the payment of
9 fees pursuant to this section, the governing body shall make
10 provision for payment of the share of improvement costs
11 apportioned to those lands from other sources, but those sources
12 need not be identified at the time of the adoption of the
13 resolution.

14 (4) The ordinance provides that payment of fees shall not be
15 required unless the major thoroughfares are in addition to, or a
16 reconstruction or widening of, any existing major thoroughfares
17 serving the area at the time of the adoption of the boundaries of
18 the area of benefit.

19 (5) The ordinance provides that payment of fees shall not be
20 required unless the planned bridge facility is an original bridge
21 serving the area or an addition to any existing bridge facility
22 serving the area at the time of the adoption of the boundaries of
23 the area of benefit. Fees imposed pursuant to this section shall
24 not be expended to reimburse the cost of existing bridge facility
25 construction, unless these costs are incurred in connection with
26 the construction of an addition to an existing bridge for which
27 fees may be required.

28 (6) The ordinance provides that if, within the time when
29 protests may be filed under its provisions, there is a written
30 protest, filed with the clerk of the legislative body, by the owners
31 of more than one-half of the area of the property to be benefited
32 by the improvement, and sufficient protests are not withdrawn so
33 as to reduce the area represented to less than one-half of that to
34 be benefited, then the proposed proceedings shall be abandoned,
35 and the legislative body shall not, for one year from the filing of
36 that written protest, commence or carry on any proceedings for
37 the same improvement or acquisition under this section, unless
38 the protests are overruled by an affirmative vote of four-fifths of
39 the legislative body.

1 Nothing in this section shall preclude the processing and
2 recordation of maps in accordance with other provisions of this
3 division if proceedings are abandoned.

4 Any protests may be withdrawn in writing by the owner who
5 filed the protest, at any time prior to the conclusion of a public
6 hearing held pursuant to the ordinance.

7 If any majority protest is directed against only a portion of the
8 improvement then all further proceedings under the provisions of
9 this section to construct that portion of the improvement so
10 protested against shall be barred for a period of one year, but the
11 legislative body shall not be barred from commencing new
12 proceedings not including any part of the improvement or
13 acquisition so protested against. Nothing in this section shall
14 prohibit the legislative body, within the one-year period, from
15 commencing and carrying on new proceedings for the
16 construction of a portion of the improvement so protested against
17 if it finds, by the affirmative vote of four-fifths of its members,
18 that the owners of more than one-half of the area of the property
19 to be benefited are in favor of going forward with that portion of
20 the improvement or acquisition.

21 If the provisions of this paragraph (6), or provisions
22 implementing this paragraph contained in any ordinance adopted
23 pursuant to this section, are held invalid, that invalidity shall not
24 affect other provisions of this section or of the ordinance adopted
25 pursuant thereto, which can be given effect without the invalid
26 provision, and to this end the provisions of this section and of an
27 ordinance adopted pursuant thereto are severable.

28 (c) Fees paid pursuant to an ordinance adopted pursuant to this
29 section shall be deposited in a planned bridge facility or major
30 thoroughfare fund. A fund shall be established for each planned
31 bridge facility project or each planned major thoroughfare
32 project. If the benefit area is one in which more than one bridge
33 or major thoroughfare is required to be constructed, a fund may
34 be so established covering all of the bridge or major thoroughfare
35 projects in the benefit area. Except as otherwise provided in
36 subdivision (g), moneys in the fund shall be expended solely for
37 the construction or reimbursement for construction of the
38 improvement serving the area to be benefited and from which the
39 fees comprising the fund were collected, or to reimburse the
40 county or a city for the cost of constructing the improvement.

1 (d) An ordinance adopted pursuant to this section may provide
2 for the acceptance of considerations in lieu of the payment of
3 fees.

4 (e) The county or a city imposing fees pursuant to this section
5 may advance money from its general fund or road fund to pay the
6 cost of constructing the improvements and may reimburse the
7 general fund or road fund from planned bridge facilities or major
8 thoroughfares funds established to finance the construction of the
9 improvements.

10 (f) The county or a city imposing fees pursuant to this section
11 may incur an interest-bearing indebtedness for the construction
12 of bridge facilities or major thoroughfares. The sole security for
13 repayment of the indebtedness shall be moneys in planned bridge
14 facilities or major thoroughfares funds. A city or county
15 imposing fees pursuant to this section may enter into joint
16 exercise of powers agreements with other local agencies
17 imposing fees pursuant to this section, for the purpose of, among
18 others, jointly exercising as a duly authorized original power
19 established by this section, in addition to those through a joint
20 exercise of powers agreement, those powers authorized in
21 Chapter 5 (commencing with Section 31100) of Division 17 of
22 the Streets and Highways Code for the purpose of constructing
23 bridge facilities and major thoroughfares in lieu of a tunnel and
24 appurtenant facilities, and, notwithstanding Section 31200 of the
25 Streets and Highways Code, may acquire by dedication, gift,
26 purchase, or eminent domain, any franchise, rights, privileges,
27 easements, or other interest in property, either real or personal,
28 necessary therefor on segments of the state highway system,
29 including, but not limited to, those segments of the state highway
30 system eligible for federal participation pursuant to Title 23 of
31 the United States Code.

32 An entity constructing bridge facilities and major
33 thoroughfares pursuant to this section shall design and construct
34 the bridge facilities and major thoroughfares to the standards and
35 specifications of the Department of Transportation then in effect,
36 and may, at any time, transfer all or a portion of the bridge
37 facilities and major thoroughfares to the state subject to the terms
38 and conditions as shall be satisfactory to the Director of the
39 Department of Transportation. Any of these bridge facilities and
40 major thoroughfares shall be designated as a portion of the state

1 highway system prior to its transfer. The participants in a joint
2 exercise of powers agreement may also exercise as a duly
3 authorized original power established by this section the power to
4 establish and collect toll charges only for paying for the costs of
5 construction of the major thoroughfare for which the toll is
6 charged and for the costs of collecting the tolls, except that a
7 joint powers agency, which is the lending agency, may,
8 notwithstanding subdivision (c), make toll revenues and fees
9 imposed pursuant to this section available to another joint powers
10 agency, which is the borrowing agency, established for the
11 purpose of designing, financing, and constructing coordinated
12 and interrelated major thoroughfares, in the form of a
13 subordinated loan, to pay for the cost of construction and toll
14 collection of major thoroughfares other than the major
15 thoroughfares for which the toll or fee is charged, if the lending
16 agency has complied with all applicable laws, including Chapter
17 5 (commencing with Section 66000) of Division 1, and if the
18 borrowing agency is required to pay interest on the loan to the
19 lending agency at a rate equal to the interest rate charged on
20 funds loaned from the Pooled Money Investment Account. Prior
21 to executing the loan, the lending agency shall make all of the
22 following findings:

23 (1) The major thoroughfare for which the toll or fee is charged
24 will benefit from the construction of the major thoroughfare to be
25 constructed by the borrowing agency or will benefit financially
26 by a sharing of revenues with the borrowing agency.

27 (2) The lending agency will possess adequate financial
28 resources to fund all costs of construction of existing and future
29 projects that it plans to undertake prior to the final maturity of the
30 loan, after funding the loan, and taking into consideration its then
31 existing funds, its present and future obligations, and the
32 revenues and fees it expects to receive.

33 (3) The funding of the loan will not materially impair its
34 financial condition or operations during the term of the loan.

35 Major thoroughfares from which tolls are charged shall utilize
36 the toll collection equipment most capable of moving vehicles
37 expeditiously and efficiently, and which is best suited for that
38 purpose, as determined by the participants in the joint exercise of
39 powers agreement. However, in no event shall the powers
40 authorized in Chapter 5 (commencing with Section 31100) of

Division 17 of the Streets and Highways Code be exercised unless a resolution is first adopted by the legislative body of the agency finding that adequate funding for the portion of the cost of constructing those bridge facilities and major thoroughfares not funded by the development fees collected by the agency is not available from any federal, state, or other source. Any major thoroughfare constructed and operated as a toll road pursuant to this section shall only be constructed parallel to other public thoroughfares and highways.

(g) The term “construction,” as used in this section, includes design, acquisition of rights-of-way, and actual construction, including, but not limited to, all direct and indirect environmental, engineering, accounting, legal, administration of construction contracts, and other services necessary therefor. The term “construction” also includes reasonable general agency administrative expenses, not exceeding three hundred thousand dollars (\$300,000) in any calendar year after January 1, 1986, as adjusted annually for any increase or decrease in the Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor for all Urban Consumers, Los Angeles–Long Beach–Anaheim, California (1967=100), as published by the United States Department of Commerce, by each agency created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 for the purpose of constructing bridges and major thoroughfares. “General agency administrative expenses” means those office, personnel, and other customary and normal expenses associated with the direct management and administration of the agency, but not including costs of construction.

(h) Fees paid pursuant to an ordinance adopted pursuant to this section may be utilized to defray all direct and indirect financing costs related to the construction of the bridges and major thoroughfares by the joint powers agency. Because the financing costs of bridges and major thoroughfares for which a toll charge shall be established or collected represent a necessary element of the total cost of those bridges and major thoroughfares, the joint powers agency constructing those facilities may include a charge for financing costs in the calculation of the fee rate. The charge shall be based on the estimated financing cost of any eligible portion of the bridges and major thoroughfares for which tolls

1 shall be collected. The eligible portion shall be any or all portions
2 of the major thoroughfare for which a viable financial plan has
3 been adopted by the joint powers agency on the basis of revenues
4 reasonably expected by the joint powers agency to be available to
5 the thoroughfare, after consultation with representatives of the
6 fee payers. For purposes of calculating the charge, financing
7 costs shall include only reasonable allowances for payments and
8 charges for principal, interest, and premium on indebtedness,
9 letter of credit fees and charges, remarketing fees and charges,
10 underwriters' discount, and other costs of issuance, less net
11 earnings on bridge and major thoroughfare funds by the joint
12 powers agency prior to the opening of the facility to traffic after
13 giving effect to any payments from the fund to preserve the
14 federal income tax exemption on the indebtedness. For purposes
15 of calculating the charge for financing costs in the calculation of
16 the fee rate only, financing costs shall not include any allowance
17 for the cost of any interest paid on indebtedness with regard to
18 each eligible portion after the estimated opening of the portion to
19 traffic as established by the joint powers agency. Any and all
20 challenges to any financial plan or financing costs adopted or
21 calculated pursuant to this section shall be governed by
22 subdivision (k).

23 (i) Nothing in this section shall be construed to preclude the
24 County of Orange or any city within that county from providing
25 funds for the construction of bridge facilities or major
26 thoroughfares to defray costs not allocated to the area of benefit.

27 (j) Any city within the County of Orange may require the
28 payment of fees in accordance with this section as to any
29 property in an area of benefit within the city's boundaries, for
30 facilities shown on its general plan or the county's general plan,
31 whether the facilities are situated within or outside the
32 boundaries of the city, and the county may expend fees for
33 facilities or portions thereof located within cities in the county.

34 (k) The validity of any fee required pursuant to this section
35 shall not be contested in any action or proceeding unless
36 commenced within 60 days after recordation of the resolution
37 described in paragraph (3) of subdivision (b). The provisions of
38 Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of
39 the Code of Civil Procedure shall be applicable to ~~any such~~ *this*

1 action or proceeding. This subdivision shall also apply to
2 modifications of fee programs.

3 (l) If the County of Orange and any city within that county
4 have entered into a joint powers agreement for the purpose of
5 constructing the bridges and major thoroughfares referred to in
6 Sections 50029 and 66484.3, and if a proposed change of
7 organization or reorganization includes any territory of an area of
8 benefit established pursuant to Sections 50029 and 66484.3,
9 within a successor local agency, the local agency shall not take
10 any action that would impair, delay, frustrate, obstruct, or
11 otherwise impede the construction of the bridges and major
12 thoroughfares referred to in this section.

13 (m) Nothing in this section prohibits the succession of all
14 powers, obligations, liabilities, and duties of any joint powers
15 agency created pursuant to subdivision (l) to an entity with
16 comprehensive countywide transportation planning and operating
17 authority—~~which~~ *that* is statutorily created in the County of
18 Orange and which is statutorily authorized to assume those
19 powers, obligations, liabilities, and duties.

20 SEC. 5. Section 99150 of the Public Utilities Code is
21 amended to read:

22 99150. In locating its bus stops, park and ride service
23 facilities, and special service terminal points and stations, a
24 transit district shall consult with, and consider the
25 recommendations of, the city if ~~such~~ transit facilities are to be
26 located therein, or the county if ~~such~~ transit facilities are to be
27 located in the unincorporated area thereof, on the proposed
28 locations.

29 The city or county, as the case may be, in making its
30 recommendations to the transit district on the proposed location
31 of ~~any such~~ *the* transit facilities, shall consider whether the
32 proposed location is consistent with the ~~circulation~~
33 *transportation* element of its general plan.

34 SEC. 6. Section 75.9 of the Streets and Highways Code is
35 amended to read:

36 75.9. Upon the selection, adoption, and determination of the
37 location for a state highway or freeway, the commission shall
38 notify all planning agencies and legislative bodies having
39 responsibility pursuant to Section 65300 of the Government
40 Code for the adoption of the general plan or plans in the area

1 affected by ~~such~~ *the* commission action. Within 90 days after
2 receipt of such notice, all ~~such~~ planning agencies and legislative
3 bodies shall revise the ~~circulation~~ *transportation* element of their
4 general plans to reflect ~~such~~ *the* commission action.

5 SEC. 7. Section 21101 of the Vehicle Code is amended to
6 read:

7 21101. Local authorities, for those highways under their
8 jurisdiction, may adopt rules and regulations by ordinance or
9 resolution on the following matters:

10 (a) Closing any highway to vehicular traffic when, in the
11 opinion of the legislative body having jurisdiction, the highway
12 is either of the following:

13 (1) No longer needed for vehicular traffic.

14 (2) The closure is in the interests of public safety and all of the
15 following conditions and requirements are met:

16 (A) The street proposed for closure is located in a county with
17 a population of 6,000,000 or more.

18 (B) The street has an unsafe volume of traffic and a significant
19 incidence of crime.

20 (C) The affected local authority conducts a public hearing on
21 the proposed street closure.

22 (D) Notice of the hearing is provided to residents and owners
23 of property adjacent to the street proposed for closure.

24 (E) The local authority makes a finding that closure of the
25 street likely would result in a reduced rate of crime.

26 (b) Designating any highway as a through highway and
27 requiring that all vehicles observe official traffic control devices
28 before entering or crossing the highway or designating any
29 intersection as a stop intersection and requiring all vehicles to
30 stop at one or more entrances to the intersection.

31 (c) Prohibiting the use of particular highways by certain
32 vehicles, except as otherwise provided by the Public Utilities
33 Commission pursuant to Article 2 (commencing with Section
34 1031) of Chapter 5 of Part 1 of Division 1 of the Public Utilities
35 Code.

36 (d) Closing particular streets during regular school hours for
37 the purpose of conducting automobile driver training programs in
38 the secondary schools and colleges of this state.

39 (e) Temporarily closing a portion of any street for
40 celebrations, parades, local special events, and other purposes

when, in the opinion of local authorities having jurisdiction or a public officer or employee that the local authority designates by resolution, the closing is necessary for the safety and protection of persons who are to use that portion of the street during the temporary closing.

(f) Prohibiting entry to, or exit from, or both, from any street by means of islands, curbs, traffic barriers, or other roadway design features to implement the ~~circulation~~ *transportation* element of a general plan adopted pursuant to Article 6(~~commencing with Section 65350~~) 5 (*commencing with Section 65300*) of Chapter 3 of Division 1 of Title 7 of the Government Code. The rules and regulations authorized by this subdivision shall be consistent with the responsibility of local government to provide for the health and safety of its citizens.

SEC. 8. Section 35701 of the Vehicle Code is amended to read:

35701. (a) Any city, or county for a residence district, may, by ordinance, prohibit the use of a street by any commercial vehicle or by any vehicle exceeding a maximum gross weight limit, except with respect to any vehicle which is subject to Sections 1031 to 1036, inclusive, of the Public Utilities Code, and except with respect to vehicles used for the collection and transportation of garbage, rubbish, or refuse using traditionally used routes in San Diego County when the solid waste management plan prepared under Section 66780.1 of the Government Code is amended to designate each traditionally used route used for the purpose of transporting garbage, rubbish, or refuse which intersects with a local or regional arterial circulation route contained within a city or county's traffic ~~circulation~~ *transportation* element and which provides access to a solid waste disposal site.

(b) The ordinance shall not be effective until appropriate signs are erected indicating either the streets affected by the ordinance or the streets not affected, as the local authority determines will best serve to give notice of the ordinance.

(c) No ordinance adopted pursuant to this section after November 10, 1969, shall apply to any state highway which is included in the National System of Interstate and Defense Highways, except an ordinance which has been approved by a two-thirds vote of the California Transportation Commission.

1 (d) The solid waste management plan prepared under Section
2 66780.1 of the Government Code by San Diego County may
3 designate the traditionally used routes.

4 (e) “Traditionally used route,” for purposes of this section,
5 means any street used for a period of one year or more as access
6 to or from a solid waste disposal site.

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